

118TH CONGRESS
1ST SESSION

S. 139

To combat organized crime involving the illegal acquisition of retail goods for the purpose of selling those illegally obtained goods through physical and online retail marketplaces.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2023

Mr. GRASSLEY (for himself and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To combat organized crime involving the illegal acquisition of retail goods for the purpose of selling those illegally obtained goods through physical and online retail marketplaces.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Organized Retail
5 Crime Center Authorization Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 It is the sense of Congress that—

1 (1) organized retail crime, a crime involving
2 groups of individuals specifically targeting retail
3 stores, often by using violence or threats of violence
4 to subdue employees and shoppers while robbing
5 stores of their most valuable and easily diverted
6 merchandise, has been a growing concern to retail-
7 ers, industry, and law enforcement;

8 (2) retailers have seen a dramatic increase in
9 occurrences of organized retail crime, costing retail-
10 ers approximately \$720,000 per every
11 \$1,000,000,000 in sales in 2019, representing more
12 than a 50-percent increase in such losses since 2015.
13 Further, according to the National Retail Federa-
14 tion, the use of violence or aggression is increasing
15 in the commission of these crimes, with $\frac{2}{3}$ of retail-
16 ers reporting an increase of violence during the com-
17 mission of retail theft;

18 (3) organized retail crime—

19 (A) threatens the safety and liberty of in-
20 dividuals in the United States when those indi-
21 viduals engage in commerce;

22 (B) erodes the retail economy for cus-
23 tomers and businesses alike; and

24 (C) finances transnational criminal organi-
25 zations that use the proceeds of those thefts to

1 support the criminal goals of the criminal orga-
 2 nizations; and

3 (4) it has become necessary for Congress to di-
 4 rect the executive branch to create a central coordi-
 5 nation center to align Federal, State, local, terri-
 6 torial, and Tribal efforts to combat organized retail
 7 crime.

8 **SEC. 3. ESTABLISHMENT OF A CENTER TO COMBAT ORGA-**
 9 **NIZED RETAIL CRIME.**

10 (a) IN GENERAL.—Title III of the Trade Facilitation
 11 and Trade Enforcement Act of 2015 (19 U.S.C. 4341 et
 12 seq.) is amended by inserting after section 305 the fol-
 13 lowing:

14 **“SEC. 305A. ORGANIZED RETAIL CRIME COORDINATION**
 15 **CENTER.**

16 “(a) DEFINITIONS.—In this section:

17 “(1) CENTER.—The term ‘Center’ means the
 18 Organized Retail Crime Coordination Center estab-
 19 lished pursuant to subsection (b)(1).

20 “(2) ORGANIZED RETAIL CRIME.—The term
 21 ‘organized retail crime’ includes—

22 “(A) any crime described in section 2314
 23 or 2315 of title 18, United States Code; and

24 “(B) aiding or abetting the commission of,
 25 or conspiring to commit, any act that is in fur-

1 therance of a violation of a crime referred to in
2 paragraph (1).

3 “(b) ORGANIZED RETAIL CRIME COORDINATION
4 CENTER.—

5 “(1) ESTABLISHMENT.—Not later than 90 days
6 after the date of the enactment of the Organized Re-
7 tail Crime Center Authorization Act of 2023, the
8 Secretary of Homeland Security shall direct the Ex-
9 ecutive Associate Director of Homeland Security In-
10 vestigations to establish the Organized Retail Crime
11 Coordination Center.

12 “(2) DUTIES.—The duties of the Center shall
13 include—

14 “(A) coordinating Federal law enforcement
15 activities related to organized retail crime, in-
16 cluding investigations of national and
17 transnational criminal organizations that are
18 engaged in organized retail crime;

19 “(B) establishing relationships with State
20 and local law enforcement agencies and organi-
21 zations, including organized retail crime asso-
22 ciations, and sharing information regarding or-
23 ganized retail crime threats with such agencies
24 and organizations;

1 “(C) assisting State and local law enforce-
2 ment agencies with their investigations of orga-
3 nized retail crime groups;

4 “(D) establishing relationships with retail
5 companies, sharing information with such com-
6 panies regarding organized retail crime threats,
7 and providing mechanisms for the receipt of in-
8 vestigative information on such threats;

9 “(E) establishing a secure system for shar-
10 ing information regarding organized retail
11 crime threats by leveraging existing information
12 systems at the Department of Homeland Secu-
13 rity and the Department of Justice;

14 “(F) tracking trends with respect to orga-
15 nized retail crime and releasing annual public
16 reports on such trends; and

17 “(G) supporting the provision of training
18 and technical assistance in accordance with sub-
19 section (c).

20 “(3) LEADERSHIP; STAFFING.—

21 “(A) DIRECTOR.—The Center shall be
22 headed by a Director, who shall be—

23 “(i) an experienced law enforcement
24 officer;

1 “(ii) appointed by the Director of
2 U.S. Immigration and Customs Enforce-
3 ment; and

4 “(iii) in the Senior Executive Service
5 (as defined in section 3132 of title 5,
6 United States Code).

7 “(B) DEPUTY DIRECTOR.—The Director of
8 the Center shall be assisted by a Deputy Direc-
9 tor, who shall be appointed, on a 2-year rota-
10 tional basis, upon request from the Executive
11 Associate Director of Homeland Security Inves-
12 tigations, by—

13 “(i) the Director of the Federal Bu-
14 reau of Investigation;

15 “(ii) the Director of the United States
16 Secret Service; or

17 “(iii) the Chief Postal Inspector.

18 “(C) FEDERAL STAFF.—The staff of the
19 Center shall include—

20 “(i) Special Agents and Analysts from
21 Homeland Security Investigations; and

22 “(ii) detailed criminal investigators,
23 analysts, and liaisons from other Federal
24 agencies who have responsibilities related

1 to organized retail crime, including
2 detailees from—

3 “(I) U.S. Customs and Border
4 Protection;

5 “(II) the United States Secret
6 Service;

7 “(III) the United States Postal
8 Inspection Service;

9 “(IV) the Bureau of Alcohol, To-
10 bacco, Firearms and Explosives; and

11 “(V) the Drug Enforcement Ad-
12 ministration.

13 “(D) STATE AND LOCAL STAFF.—The
14 staff of the Center may include detailees from
15 State and local law enforcement agencies, who
16 shall serve at the Center on a nonreimbursable
17 basis.

18 “(4) COORDINATION.—

19 “(A) IN GENERAL.—The Center shall co-
20 ordinate its activities, as appropriate, with
21 other Federal agencies and centers responsible
22 for countering transnational organized crime
23 threats.

24 “(B) SHARED RESOURCES.—In estab-
25 lishing the Center, the Executive Associate Di-

1 rector of Homeland Security Investigations may
2 co-locate or otherwise share resources and per-
3 sonnel, including detailees and agency liaisons,
4 with—

5 “(i) the National Intellectual Property
6 Rights Coordination Center established
7 pursuant to section 305(a)(1); or

8 “(ii) other existing interagency cen-
9 ters within the Department of Homeland
10 Security.

11 “(C) AGREEMENTS.—The Director of the
12 Center, or his or her designee, may enter into
13 agreements with Federal, State, local, and Trib-
14 al agencies and private sector entities to facili-
15 tate carrying out the duties described in para-
16 graph (2).

17 “(D) INFORMATION SHARING.—Subject to
18 the approval of the Director of the Center, in-
19 formation that would otherwise be subject to
20 the limitation on the disclosure of confidential
21 information set forth in section 1905 of title
22 18, United States Code, may be shared if such
23 disclosure is operationally necessary. The Direc-
24 tor may not delegate his or her authority under
25 this subparagraph.

1 “(5) REPORTING REQUIREMENTS.—

2 “(A) INITIAL REPORT.—

3 “(i) IN GENERAL.—Not later than 1
4 year after the date of the enactment of the
5 Organized Retail Crime Center Authoriza-
6 tion Act of 2023, the Secretary of Home-
7 land Security shall submit a report regard-
8 ing the establishment of the Center to—

9 “(I) the Committee on the Judi-
10 ciary of the Senate;

11 “(II) the Committee on Home-
12 land Security and Governmental Af-
13 fairs of the Senate;

14 “(III) the Committee on the Ju-
15 diciary of the House of Representa-
16 tives; and

17 “(IV) the Committee on Home-
18 land Security of the House of Rep-
19 resentatives.

20 “(ii) CONTENTS.—The report required
21 under clause (i) should include a descrip-
22 tion of—

23 “(I) the organizational structure
24 of the Center;

1 “(II) the agencies and partner
2 organizations that are represented
3 within the Center;

4 “(III) any challenges that had to
5 be addressed while establishing the
6 Center;

7 “(IV) any lessons learned from
8 establishing the Center, including suc-
9 cessful prosecutions resulting from the
10 activities of the Center;

11 “(V) recommendations for ways
12 to strengthen the enforcement of laws
13 involving organized retail crime;

14 “(VI) recommendations for ways
15 to include organized retail crime with-
16 in a holistic supply chain security en-
17 forcement framework;

18 “(VII) the intersections and com-
19 monalities between organized retail
20 crime organizations and other orga-
21 nized theft groups, including supply
22 chain diversion and theft; and

23 “(VIII) the impact of organized
24 theft groups on the scarcity of vital
25 products, including medicines, per-

1 sonal protective equipment, and infant
2 formula.

3 “(B) ANNUAL REPORT.—Beginning on the
4 date that is 1 year after the submission of the
5 report required under subparagraph (A), the
6 Director shall submit an annual report that de-
7 scribes the activities of the Center during the
8 previous year to the congressional committees
9 listed in subparagraph (A)(i).

10 “(c) TRAINING AND TECHNICAL ASSISTANCE.—

11 “(1) EVALUATION.—Not later than 180 days
12 after the date of the enactment of the Organized Re-
13 tail Crime Center Authorization Act of 2023, the
14 Secretary of Homeland Security and the Attorney
15 General shall conduct an evaluation of existing Fed-
16 eral programs that provide grants, training, and
17 technical support to State, local, and Tribal law en-
18 forcement to assist in countering organized retail
19 crime.

20 “(2) EVALUATION SCOPE.—The evaluation re-
21 quired under paragraph (1) shall evaluate, at a min-
22 imum—

23 “(A) the Homeland Security Grant Pro-
24 gram at the Federal Emergency Management
25 Agency;

1 “(B) grant programs at the Office of Jus-
2 tice Programs within the Department of Jus-
3 tice; and

4 “(C) relevant training programs at the
5 Federal Law Enforcement Training Center.

6 “(3) REPORT.—Not later than 45 days after
7 the completion of the evaluation required under
8 paragraph (1), the Secretary of Homeland Security
9 and the Attorney General shall jointly submit a re-
10 port to the congressional committees listed in sub-
11 section (b)(5)(A)(i) that—

12 “(A) describes the results of such evalua-
13 tion; and

14 “(B) includes recommendations on ways to
15 expand grants, training, and technical assist-
16 ance for combating organized retail crime.

17 “(4) ENHANCING OR MODIFYING TRAINING AND
18 TECHNICAL ASSISTANCE.—Not later than 45 days
19 after submitting the report required under para-
20 graph (3), the Secretary of Homeland Security and
21 the Attorney General shall jointly issue formal guid-
22 ance to relevant agencies and offices within the De-
23 partment of Homeland Security and the Department
24 of Justice for modifying or expanding, as appro-

1 appropriate, the prioritization of training and technical as-
2 sistance designed to counter organized retail crime.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 for the Trade Facilitation and Trade Enforcement Act of
5 2015 (Public Law 107–296) is amended by inserting after
6 the item relating to section 305 the following:

“Sec. 305A. Organized Retail Crime Coordination Center.”.

